

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

DAVID FREEMAN, )  
Petitioner, )  
v. ) Civil Action Number  
RICHARD F. ALLEN, ) 2:06CV122-MHT-WC  
Commissioner of the Alabama )  
Department of Corrections, )  
Respondent. )

**SECOND UNOPPOSED MOTION FOR ENLARGEMENT OF TIME**

Comes now Respondent, by and through Troy King, the Attorney General of the State of Alabama, and on behalf of Respondent Richard Allen, respectfully moves this Honorable Court for an enlargement of seven (7) days, until July 5, 2007, within which to file his procedural default brief. As grounds in support of this motion, Respondent offers the following:

1. This is a federal habeas corpus petition challenging Smith's capital murder conviction and sentence of death.
2. Undersigned counsel also represents the State in 27 other capital murder trials, direct appeals, and post-conviction proceedings. Notable among these cases is Michael Lynn Sale, (CR-05-1447), in which undersigned counsel must file a

direct appeal brief before the Alabama Court of Criminal Appeals on or before July 3, 2007.

3. Though Counsel for the State has worked diligently on this case, he will be unable to prepare an adequate brief by this Court's deadline. Petitioner's Brief On The Merits And In Opposition To Respondent's Brief On Procedural Default is 217 pages in length. Given the level of detail that will be necessary for a response, and undersigned counsel's lack of familiarity with many of the issues in this case, Counsel needs an additional seven (7) days to insure that the brief meets this Courts standards while attending to counsel's other obligations.
4. The interests of justice and fairness and this Court's judicial function will best be served by granting the requested enlargement. Likewise, Freeman will not be prejudiced if the request for enlargement is granted.
5. Counsel for the Petitioner does not oppose this motion.

WHEREFORE, for the foregoing reasons, Respondent moves this Court for an enlargement of seven (7) days within which to file its

procedural default brief, thus making the State's Answer due on or before July 5, 2007.

Respectfully submitted,

Troy King  
*Attorney General*

/s/ Michael A. Nunnelley  
Michael A. Nunnelley  
*Assistant Attorney General*

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 27, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Keir M. Weyble, Christopher Seeds, and Robin Konrad.**

/s/ Michael A. Nunnelley  
Michael A. Nunnelley  
*Assistant Attorney General*  
*Counsel for Respondent*

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June 27, 2007